

CITY COUNCIL AGENDA ITEM COVER MEMO

FOR AGENDA OF COUNCIL MEETING/WORK SESSION - DATE : October 11, 2012

ACTION REQUESTED BY: Huntsville Utilities

SUBJECT MATTER : TVA Agreement

EXACT WORDING FOR AGENDA: Resolution authorizing the Mayor to execute an Agreement with TVA amending the General Power Contract to allow Huntsville Utilities to amend the contract with Saint-Gobain to allow participation in the Reservation Preservation (RP) Program. (Utilities: Electric)

ORDINANCE:

RESOLUTION: X

MOTION:

(IF AMENDMENT, STATE TITLE AND NUMBER OF ORIGINAL): N/A

ITEM IS TO BE CONSIDERED FOR:

INTRODUCTION:

ACTION: X

DISCUSSION:

UNANIMOUS CONSENT REQUIRED? No

BRIEFLY STATE WHY THE ACTION IS REQUESTED; WHY IT IS RECOMMENDED OR NOT RECOMMENDED; WHAT COUNCIL ACTION WILL PROVIDE, ALLOW, OR ACCOMPLISH; ANY ASSOCIATED COST; BUDGETED (?); AND ANY OTHER INFORMATION THAT YOU THINK MIGHT BE HELPFUL. Approval of this resolution will authorize the Mayor to execute an Agreement with TVA amending the General Power Contract to allow Huntsville Utilities to amend the contract with Saint-Gobain to allow participation in the Reservation Preservation (RP) Program.

MAYOR RECOMMENDS OR CONCURS? YES _____ NO _____ N/A _____

SIGNATURE: William C. Pippin, President & CEO

DATE: September 21, 2012

RESOLUTION NO. 12-_____

WHEREAS, the City of Huntsville, Alabama (hereinafter referred to as Distributor), and Tennessee Valley Authority (hereinafter referred to as TVA), have heretofore entered into Power Contract TV54501A, dated May 26, 1980, as amended (which contract is hereinafter called the Power Contract); and

WHEREAS, Saint-Gobain Ceramics & Plastics, Inc. (hereinafter referred to as Company) and Distributor have heretofore entered into Power Supply (Company Contract), with a remaining term of four years, for the purchase of power, and

WHEREAS, Company, Distributor and TVA have entered into a Reserve preservation Agreement of even date covering arrangements to participate in TVA's Reserve Preservation (RP) Interruptible Program under which a portion of Company's contract demand will be designated as RP Interruptible power; and

WHEREAS, the parties wish to supplement and amend the Company Contract and to enter into such other arrangements as are necessary with respect to Distributor providing service to Company under the RP Program Agreement;

WHEREAS, there is now presented to the City Council of the City of Huntsville, Alabama, a proposed tri-party Agreement reflecting the arrangements to allow participation in the Reserve Preservation (RP) Interruptible Program, upon execution of agreement, with the representation that said agreement has been approved by the Huntsville Electric Utility Board.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that it does hereby approve the aforesaid tri-party Agreement and Tommy Battle, as Mayor of the City of Huntsville, Alabama, be, and he is authorized to execute said tri-party Agreement for and on behalf of the City of Huntsville, Alabama, and the Clerk-Treasurer be and he is hereby authorized to attest the same and to affix thereto the seal of the City of Huntsville, Alabama, all in as many counterparts as may be necessary.

BE IT FURTHER RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an agreement by and between the City of Huntsville, the Tennessee Valley Authority and Saint-Gobain Ceramics & Plastics, Inc., on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Agreement between City of Huntsville, Alabama and Tennessee Valley Authority," consisting of 5 pages and the date of _____, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being

permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the ____ day of _____, 2012.

President of the City Council of the
City of Huntsville, Alabama

APPROVED this the ____ day of _____, 2012.

Mayor of the City of Huntsville,
Alabama



Tennessee Valley Authority, Post Office Box 1010, Muscle Shoals, Alabama 35662-1010

September 7, 2012

Mr. William C. Pippin
President and Chief Executive Officer
Huntsville Utilities
Post Office Box 2048
Huntsville, Alabama 35804-2048

Dear Bill:

Enclosed for your review and execution are four original copies of the Saint-Gobain Reserve Preservation agreement and three original copies of the related Wholesale agreement.

Upon execution of all four original copies of the Reserve Preservation agreement by Saint-Gobain and Huntsville, and execution of all three original copies of the Wholesale agreement by Huntsville, please return all the originals to me for further handling by TVA. Three fully executed originals of the Reserve Preservation agreement and two fully executed originals of the Wholesale agreement will be returned to you for your files.

If you have any questions concerning the enclosed agreements, please contact me.

Sincerely,

Kevin

Kevin C. Chandler
Senior Customer Service Manager

by Brenda

Enclosures

**AGREEMENT
Between
CITY OF HUNTSVILLE, ALABAMA
And
TENNESSEE VALLEY AUTHORITY**

Date: _____

TV-54501A, Supp. No. 111

THIS AGREEMENT, made and entered into between CITY OF HUNTSVILLE, ALABAMA (Distributor), a municipal corporation created and existing under and by virtue of the laws of the State of Alabama, and TENNESSEE VALLEY AUTHORITY (TVA), a corporation created and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended (TVA Act);

WITNESSETH:

WHEREAS, TVA and Distributor have entered into a contract dated May 26, 1980, as amended (Power Contract), under which Distributor purchases its entire requirements for electric power and energy from TVA for resale; and

WHEREAS, Distributor and Saint-Gobain Ceramics & Plastics, Inc. (Company) have entered into a power supply contract (Company Contract), with a remaining term of at least four years, under which Company purchases power from Distributor for the operation of Company's plant near Huntsville, Alabama; and

WHEREAS, TVA, Distributor, and Company have entered into an agreement of even date herewith (RP Program Agreement) covering arrangements for Distributor and Company to participate in TVA's Reserve Preservation (RP) Interruptible Program under which a portion of Company's contract demand will be designated as RP interruptible power; and

WHEREAS, the parties wish to supplement and amend the Power Contract and to enter into such other arrangements as are necessary between TVA and Distributor with respect to Distributor providing service to Company under the RP Program Agreement;

NOW, THEREFORE, for and in consideration of the premises and of the mutual agreements set forth below, and subject to the provisions of the TVA Act, the parties mutually agree as follows:

SECTION 1 - TERM OF AGREEMENT

This agreement shall become effective as of the effective date of the RP Program Agreement, and shall continue in effect until expiration or termination of the RP Program Agreement, or of the Power Contract, whichever first occurs.

SECTION 2 - BILLING DATA

2.1 Metering Data. Data obtained from the metering facilities referred to in section 5 of this agreement will be used (a) by Distributor for the purposes of determining the power and energy taken by Company and (b) by TVA for determining applicable adjustments for Distributor's wholesale bill.

2.2 Billing Data Supplied by Distributor. As a condition for TVA making RP available to Distributor, Distributor shall provide TVA the following information related to Company's power and energy takings under the RP program.

2.2.1 Bills to Company. To facilitate TVA's preparation of the bill to Distributor for power and energy made available under the Power Contract, each month Distributor shall furnish to TVA a copy of Distributor's bill to Company for power and energy made available under the Company Contract.

2.2.2 RP Data. Distributor shall also provide such other information related to Company's power and energy takings as TVA may require, including but not limited to, any charges associated with RP, RP credits, and Underperformance Charges.

2.3 TVA Billing Analysis. It is recognized that TVA will perform certain monthly meter-reading services and billing data analysis (Billing Analysis) with respect to Company. Accordingly, TVA will supply Distributor as soon as practicable after Company's scheduled meter-reading date the information regarding the amounts of power designated as RP deemed to have been taken by Company and such other information as may be necessary for Distributor to calculate Company's bill under the Company Contract and to meet its obligations under 2.2 above.

SECTION 3 - ADJUSTMENTS TO DISTRIBUTOR'S WHOLESALE BILLING

In calculating the wholesale bill each month for Distributor, the following steps will be taken with respect to Company:

3.1 Demand and Energy Charges. Distributor will be billed demand and energy charges as provided in the wholesale rate schedule (Wholesale Schedule), which is contained in the Schedule of Rates and Charges attached to and made a part of the Power Contract, for the demand and the energy deemed to have been taken by Company under the Company Contract and the RP Program Agreement.

3.2 RP Credits. TVA will apply a credit to the wholesale power bill equal to any RP demand credits and RP energy credits applied to Company's bill in accordance with the RP Program Agreement.

3.3 Underperformance Charges. In the event that any Underperformance Charges are applied to Company's bill in accordance with the RP Program Agreement, the amount of the Underperformance Charges will be included in a subsequent wholesale bill as provided for in section 4 below.

3.4 Administrative Costs Charge. An amount equal to the Administrative Costs Charge billed to Company (in accordance with the RP Program Agreement) will be included as part of the wholesale bill.

3.5 Adjustment 3 of Wholesale Schedule. It is expressly recognized that Adjustment 3 to the Wholesale Schedule shall apply; provided, however, that the amount owed by Distributor under Adjustment 3 shall be reduced by the amount calculated to reduce Company's minimum billing charges under section 5.4 of the RP Program Agreement.

SECTION 4 - UNDERPERFORMANCE CHARGES

(a) In the event that any Underperformance Charges are applied to Company's bill in accordance with the RP Program Agreement, except as otherwise provided in (b) below, the amount of the Underperformance Charges will be included in the wholesale bill for the first wholesale billing month occurring at least 60 days after the date that such Underperformance Charge is to be paid by Company.

(b) In the event that Company fails to pay any Underperformance Charges when due:

(i) Distributor shall promptly notify TVA in writing. Within 90 days after the date on which Company becomes past due in the payment of any Underperformance Charges, Distributor, after consultation with TVA, shall institute litigation to enforce payment. To the extent determined by TVA to be appropriate, TVA will assist Distributor in such efforts. Upon failure of Distributor to do so, TVA may institute such litigation in the name of Distributor, or in the name of TVA, or in the name of both, and any actions taken by TVA in connection with such litigation shall be binding on Distributor.

(ii) The amounts applicable under (a) above shall accrue but shall not become payable by Distributor until collection is made from Company. If all legal remedies are pursued, Distributor's payment obligations to TVA shall be limited to the amount recovered from Company reduced by the costs (not recovered from the Company) reasonably incurred by Distributor in the prosecution of such litigation.

SECTION 5 - METERING FACILITIES

5.1 Revenue Meter. It is recognized and agreed that Distributor is responsible for providing, installing, and maintaining the meter and associated equipment which in TVA's judgment are needed for determining the amounts of power and energy associated with RP. Such metering facilities shall include a solid-state type revenue meter (Revenue Meter) capable of remote telephone access. Distributor will, at its expense, provide the equipment and materials and perform the work necessary to install the Revenue Meter. Thereafter, Distributor shall test, calibrate, operate, maintain, repair, and replace all facilities in the metering installation.

5.2 Remote Access. In accordance with guidelines or specifications furnished or approved by TVA, Distributor shall provide or otherwise arrange for a telephone circuit (or an alternative system approved by TVA) and all other equipment necessary to allow remote access by TVA to the metering data recorded by the Revenue Meter under the RP Program Agreement.

5.3 Access by TVA. Distributor agrees for TVA to have access to the data stored in the Revenue Meter through the telephone circuit (or alternative system approved under 5.2 above) and will provide to TVA any information necessary for the exercise of such access. Distributor further grants to TVA access to the metering facilities for the purpose of confirmation of the metering data being received by telephone. The use of the telephone circuit and access to the metering data will be coordinated by TVA's and Distributor's operating representatives to ensure unrestricted access by TVA for data retrieval purposes during such periods as specified by TVA.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives, as of the day and year first above written.

CITY OF HUNTSVILLE, ALABAMA

By _____
Title:

TENNESSEE VALLEY AUTHORITY

By _____
Senior Manager
Power Contracts